

March 29, 2013

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Ex Parte Letter – *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45

Dear Ms. Dortch:

FairPoint Communications, Inc. ("FairPoint") files this letter in support of the Colorado Public Utilities Commission Petition for Waiver Extension<sup>1</sup> and the ex parte letter submitted by CenturyLink<sup>2</sup> in the above-referenced dockets regarding extension of the Commission's previously granted waiver for Lifeline certification rules for Colorado carriers.<sup>3</sup> FairPoint has three incumbent local exchange carriers ("ILECs") operating in Colorado – Sunflower

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<sup>1</sup> See *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, Petition for Waiver Extension of the Colorado Public Utilities Commission, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45 (filed March 8, 2013) ("Colorado Waiver Extension").

<sup>2</sup> See Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from John E. Benedict, Vice President, Federal Regulatory Affairs & Regulatory Counsel, CenturyLink, *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, Petition for Waiver Extension of the Colorado Public Utilities Commission, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45 (filed March 28, 2013) ("CenturyLink Ex Parte").

<sup>3</sup> See *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, Waiver Order, 27 FCC Rcd 5941 (2012) ("Waiver Order").

Telephone Company, Inc., Big Sandy Telecom, Inc., and Columbine Telecom Company – that are impacted by the current state-run Lifeline program and the newly passed state legislation pending signature by Colorado’s governor that would terminate state administration of Lifeline program.<sup>4</sup> The Colorado Public Utilities Commission (“COPUC”) originally sought a waiver of the Commission’s June 1, 2012 effective date for adopting uniform eligibility criteria in Colorado for the Lifeline program because legislation was needed to change Colorado law in conformance with the Commission’s new Lifeline requirements.<sup>5</sup> Although COPUC sought an extension until July 1, 2013, the Commission only granted an extension until April 1, 2013.<sup>6</sup> Earlier this year the Colorado legislature began the process to repeal the state Lifeline program.<sup>7</sup> This legislation and the implications were unexpected. If this newly passed legislation is signed into law then Colorado will become an FCC default state for Lifeline benefits.<sup>8</sup> COPUC indicates that the resolution of this legislation will not be known until early May 2013, but COPUC expects the state to continue administering Lifeline services until July 1, 2013 even if the legislation passes.<sup>9</sup>

If the current waiver is not extended until July 1, 2013, then carriers providing Lifeline service in Colorado could be forced to coordinate, in essence, two Lifeline programs. They may need to implement a federal program that complies with the Commission’s new Lifeline requirements while continuing to implement a state program that will continue until July 1, 2013 if the legislation is signed into law. Then, assuming the currently pending legislation is signed into law, carriers will need to manage the termination of the state administered and funded Low Income Telephone Assistance Program (“LITAP”) and assume the administration of an FCC default state Lifeline program structure.

The requested extension until July 1, 2013, a mere 90 days beyond the current extension of April 1, 2013, is appropriate and reasonable in light of the pending state law changes that are beyond the control of COPUC or any carrier operating in Colorado. Without this brief extension, FairPoint’s ILECs will incur great expense and administrative burden if expected to provide Lifeline benefits under two separate processes. Specifically, FairPoint would need to implement IT and billing changes, as well as training for customer service representatives for an interim period pending the effective date of the legislation currently awaiting the governor’s

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<sup>4</sup> See CenturyLink Ex Parte at 1 and 5.

<sup>5</sup> See Colorado Waiver Extension at 2.

<sup>6</sup> See Colorado Waiver Extension at 2.

<sup>7</sup> See Colorado Waiver Extension at 2-3.

<sup>8</sup> See Colorado Waiver Extension at 2.

<sup>9</sup> See Colorado Waiver Extension at 3. CenturyLink indicates that “COPUC has advised it is ‘likely’ that Colorado will have changed the statute not later than June 8 (the latest date for the governor’s signature), with the new law essentially phased in on July 1.” CenturyLink Ex Parte at 7.

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signature, followed by additional expense and process change to implement a new program structure after the effective date of the legislation. Moreover, the expense and administrative burden of this situation is exacerbated by the fact that FairPoint only has a total of about 50 Lifeline customers in the state of Colorado. Most importantly, if an interim process is expected to be implemented if a waiver extension is not granted, FairPoint would expect these changes to cause significant customer confusion and frustration, with some customers qualifying under the state eligibility criteria, some qualifying under the federal eligibility criteria, and some qualifying under both state and federal criteria.

The Commission's current waiver is set to expire on April 1, 2013. For the reasons cited here, FairPoint urges the Commission to expeditiously grant the Colorado Waiver Extension.

Please contact me should any questions arise concerning this filing.

Respectfully submitted,



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